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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

CHOI, S

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 06/18/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/245,596

Applicant(s)
Kutchmarek et al.

Examiner
Stephen Choi

Group Art Unit
3724



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-37 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-37 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Feb 5, 1999 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Oath/Declaration

1. Applicant has not given a post office address anywhere in the application papers as required by 37 CFR 1.33(a), which was in effect at the time of filing of the oath or declaration. A statement over applicant's signature providing a complete post office address is required.

Information Disclosure Statement

2. The information disclosure statement filed 01/14/1999 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56© most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 70, 102, 114. Correction is required.

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4. The drawings are objected to because Fig. 8A and 8B appears to be inconsistent with the cutting action shown on Figures 6B through 7C and page 20, line 27- page 21, line 12.

Correction is required.

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the ratcheting mechanisms, screw-activated elements, pneumatic elements, electrical-motor operated devices and the second acute angle smaller than the first acute angle must be shown or the feature(s) cancelled from the claim(s) 5 and 30. No new matter should be entered.

Specification

6. The disclosure is objected to because of the following informalities: Page 13, line 29, "38" should be --30--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The claims are replete with vague and indefinite language and should be carefully reviewed. The following are examples of many of the occurrences of such language.

In claim 1, it is not clear what structure the recitation “base having ...” encompass. It is not clear what is being mounted on the base.

In claim 2, it is not clear what structure the recitation “said cutting blade cuts ...” encompass.

Claim 4 is indefinite in that it is not clear what structure is meant by “angled with”.

In claim 6, line 4, “it is not clear what structure “thereof” is referring back to. ✓

Claims 9-10 are indefinite in that it is not clear if it is directed to an apparatus for cutting or a window covering. While the preamble states an apparatus for cutting a window covering to a specified length, the body of the claim merely sets forth a window covering.

In claim 12, it is not clear what structure is meant by “a backup”.

In claim 13, it is not clear what structure is “nylon”. Is “said backup” made of “nylon” material?

In claim 17, it is not clear what structure the recitation “ so that said cutting blade ... ” encompass.

In claim 21, “said clamping assembly” lacks positive antecedent basis.

In claim 27, “said pocket” lacks positive antecedent basis. ✓

In claims 29 and 30, “said first face” lacks positive antecedent basis. ✓

In claim 30, “said first tapered section” lacks positive antecedent basis ✓

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In claim 33, "said stop block" lacks positive antecedent basis..

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4, 9-11, 20 and 34, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Margolien.

Margolien discloses all the positively recited elements of the invention including:

- a) a base having a top surface (11);
- b) a frame (13) overlying the top surface and mounted to the base;
- c) the frame and the top surface defining a receiving area (41);
- d) a cutting assembly (19) slidably mounted to the frame for sliding along a movement axis toward and away from the receiving area (13a);
- e) the movement axis being diagonal to the top surface of the base (col. 2, line 59);
- f) a cutting blade (23) connected to the cutting assembly and a cutting edge facing the receiving area;

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- g) a driver (21) connected and in engagement with the cutting assembly wherein operation of the driver imparts sliding motion to the cutting assembly to move the cutting blade diagonally through the receiving area (col. 4);
- h) the cutting blade the workpiece to the specified length when moving through the receiving area (Fig. 1);
- i) the frame includes one or more guide tracks (37) angled with respect to the top surfaces of the base;
- j) the cutting assembly being slidably mounted in the one or more guide tracks (Fig. 1);
- k) the base includes a clamping assembly (41b, 41c);
- l) the top surface having a first end and a second end adjacent the cutting blade (Fig. 1);
- m) a measuring assembly (57) adjacent the cutting blade for measuring the specified length of the workpiece.

With respect to claims 9-10, the term “window covering” has not been given significant patentable weight since a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

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Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 5-8, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Margolien in view of Fegley et al.

Margolien discloses the invention substantially as claimed except a driver selected from the group consisting of rack and pinion gear arrangements, ratcheting mechanisms, screw-activated elements, pneumatic elements and electrical motor operated devices wherein a rack having a plurality of teeth and the pinion includes a plurality of teeth at the periphery thereof, the pinion being matingly engaged with the rack so that rotation of the pinion imparts motion to the cutting assembly, a lever including a handle at an end thereof connected to the pinion wherein movement of the lever rotates the pinion. Fegley discloses rack (13) which meshes the teeth (14) of a gear wheel (15) having enlarged flange (16) which forms the outer bearing of the movable portion (10). A key (17) passing through the shaft and is adapted to a slot (18) in the gear so that the gear must turn with the shaft when a handle (19) is operated. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Margolien's assembly with a rack and pinion arrangement as taught by Fegley in order to facilitate the motion of the cutting assembly.

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13. Claims 12-14, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Margolien in view of Wright.

Margolien discloses the invention substantially as claimed except a nylon backup bar extending across the second end and opposing the cutting edge. Wright discloses platen (7) made from fibrous material so as not to dull the edge of the cutter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Margolien's device with a backup as taught by Wright in order to prevent the cutting blade to be prematurely dulled. In addition, it would have been an obvious matter of design choice to make the different portions of the backup of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make a backup from nylon, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

14. Claims 15-17 and 21-23, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Margolien.

Margolien discloses the invention substantially as claimed including:

- n) a guide rail (45, 47) adjacent the movement axis and guiding movement across the top surface and aligning with the cutting blade;

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- o) the cutting blade including a longitudinal axis substantially perpendicular to the longitudinal axis of the guide rail (Fig. 1);
- p) a clamp block (41b, 41c) extending substantially parallel to the guide rail and having threaded bore, a rotatably threaded shaft and a crank handle (41a), the rotatably shaft having a first end connected to the clamp block via the threaded bore and a second end rotatably connected to the crank handle wherein the crank handle is rotatable for moving the clamp block toward and away from the guide rail wherein the clamp block is movable toward the guide rail for applying a clamping force (Fig. 1).

Margolien does not disclose the guide rail at the top surface of the base extending from the first end to the second end of the top surface. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place a guide rail at the top surface, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

15. Claims 18-19, 24-31 and 33, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Margolien in view of Sands et al.

With respect to claims 18-19, Margolien discloses the invention substantially as claimed except the guide rail including a mandrel slidable within the opening of the headrail. Sands et al. discloses anvil (44) having an outer profile (49) designed to correspond with the inner contour of the head rail. It would have been obvious to one having ordinary skill in the art at the time the

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invention was made to modify Margolien's assembly with a anvil with an outer profile as taught by Sand et al. in order to securely hold the head rail in place and prevents from twisting while it is cut.

With respect to claims 24-31 and 33, Margolien discloses the invention substantially as claimed including a measuring assembly (57) adjacent the cutting blade for measuring the specified length. Margolien does not disclose:

- 1) the cutting blade including a massive portion and a pocket and the massive portion being thicker than the pocket;
- 2) the pocket is contiguous with the cutting edge and the massive portion surrounds the pocket;
- 3) the massive portion of the cutting blade is approximately 0.40-0.50 inches thick and the pocket is approximately 0.10-0.20 inches thick;
- 4) the cutting blade includes a first face substantially flat and a second face including the pocket;
- 5) the pocket including a tapered region extending from the cutting edge and the tapered region having a thickness increases as the distance from the cutting edge increases;
- 6) the tapered region includes a first tapered section extending away from the cutting edge and the first tapered section and the first face defining a first acute angle;

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- 7) the tapered region includes a second tapered section extending from the first tapered section and remote from the cutting edge;
- 8) the second tapered section and the first face defining a second acute angle which is smaller than the first acute angle;
- 9) the pocket of the cutting blade faces the end of the workpiece to be cut and the stop block.

However, Sands et al. disclose a cutter blade (31) with front surface (120), a tapered region (124) which tapers from back surface (122) into general proximity with cutting edge (70), a bevel (126) forming a larger acute angle (129) with longitudinal axis (128) than does tapered region (124) which forms an acute angle (130). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Margolien's device to employ a cutting blade as taught by Sands et al. in order to improve the strength and durability to make efficient cutting. With respect to claim 26, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make Sands's blade with such range of thickness of the pocket and the area surrounding the pocket (see col. 8, lines 50-57 in Sands et al.), since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

16. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Margolien in view of Sands et al. as applied to claim 31 above, and further in view of Yannazzone.

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Margolien and Sands et al. discloses the invention substantially as claimed except a stop block movable between a first position in which the stop block engages the workpiece and a second position in which the stop block is remote from the workpiece. Yannazzone teaches that the stop (32) is removed after shaped clamps (34) fasten the stack of slats (16) onto the shaped anvils (12) so that the free ends (16a) of the slats are allowed to fall away freely, without being impeded by anything, for instance by the stops (32) or clamps to obtain a smooth end and smooth corners of the finished cut slats. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a stop as taught by Yannazzone on Margolien's device to reduce the force exerted by the cutting blade and to prevent the likelihood of cracking the workpiece while being cut.

17. Claims 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margolien in view of Yannazzone.

Margolien discloses the invention substantially as claimed including a ruler (57) for measuring the workpiece. Margolien does not disclose a stop block movable between a first position in which the stop block engages the workpiece and a second position in which the stop block is remote from the workpiece. Yannazzone teaches that the stop (32) is removed after shaped clamps (34) fasten the stack of slats (16) onto the shaped anvils (12) so that the free ends (16a) of the slats are allowed to fall away freely, without being impeded by anything, for instance by the stops (32) or clamps to obtain a smooth end and smooth corners of the finished cut slats. It would have been obvious to one having ordinary skill in the art at the time the invention was

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made to employ a stop as taught by Yannazzone on Margolien's device to reduce the force exerted by the cutting blade and to prevent the likelihood of cracking the workpiece while being cut.

Conclusion

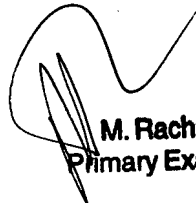
18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fegley et al., Georgopoulos, Hsu, Marocco, Meyer, Pluber, Wang.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Choi whose telephone number is (703) 306-4523. The examiner can normally be reached on Monday to Thursday from 8:00 to 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada, can be reached on (703) 308-2187. The fax phone number for this Group is (703) 305-3579.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

SC
June 16, 1999


M. Rachuba
Primary Examiner